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COMMITTEE ON THE PEACEFUL USES
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Agenda item 3

THE ELABORATION OF DRAFT PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE

Working paper submitted by Canada and Germany

The following is the ninth revision of the draft principles contained in working paper A/AC.105/C.2/L.154 of 25 March 1986 and reflects discussions held at the thirtieth session of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space. This revision reflects as well what many delegations consider to be a solid basis for further consensus.

Principles 1, 3, 5, 6, 7 and 10 have been agreed to by the Subcommittee. It was agreed by the Subcommittee at its thirtieth session that principle 11 be deleted. It was noted by the Committee on the Peaceful Uses of Outer Space at its thirty-third session that a basis for consensus in the near future had been provided on the text for draft principle 8.

Principle 1A: Definition of terms

1. For the purpose of principles 3, 4, 5 and 7 of these principles, the terms "launching State" or "State launching" mean:

(a) The State on whose registry a space object is carried in accordance with the Convention on Registration of Objects Launched into Outer Space;

(b) The State which shall retain jurisdiction and control over such an object according to article VII of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

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If the object is not registered in accordance with the above-mentioned Convention, the terms "launching State" or "State launching" mean the State which exercises or plans to exercise jurisdiction and control over such space object.

2. For the purpose of principle 9, the definition of the term "launching State" as contained in this principle is applicable.

Principle 4: Safety assessment

1. A State launching a space object* with a nuclear power source on board shall conduct in cooperation, where relevant, with those which have designed or constructed or will operate the nuclear power source a thorough and comprehensive safety assessment prior to each launch. This assessment shall cover as well all relevant phases of the mission and shall deal with all systems involved, including, for example, the means of launching, the space platform, the nuclear power source and its equipment, and the means of control and communication between ground and space.

2. When there are two or more launching States in respect of any such space objects with a nuclear power source on board, they shall jointly determine which of them shall conduct the safety assessment.

3. This assessment shall respect the guidelines and criteria for safe use contained in principle 3.

4. The results, detailed when practicable, of this safety assessment shall be made publicly available prior to each launch through the Secretary-General of the United Nations.

Principle 8: Responsibility**

1. In accordance with article VI of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, States shall bear international responsibility for national activities in outer space, including activities involving the use of nuclear power sources (in outer space), whether such activities are carried on by governmental agencies or by non-governmental entities, and for assuring that such national activities are carried out in conformity with that Treaty and (the recommendations contained in) these principles.

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* The term "State launching a space object" is to be further considered.

** Final agreement on principles 8 and 9 is subject to further discussions relating to the definition(s) of the launching State.

2. When activities in outer space involving the use of nuclear power sources are carried on by an international organization, responsibility for compliance with the aforesaid Treaty and (the recommendations contained in) these principles shall be borne both by the international organization and by the States participating in it.

Principle 9: Liability and compensation*

1. In accordance with article VII of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, and the provisions of the Convention on International Liability for Damage Caused by Space Objects, States which launch or procure the launching of a space object carrying a nuclear power source and States from whose territory or facility a space object carrying a nuclear power source is launched** shall be internationally liable for damage caused by such space objects or their component parts. Whenever two or more States jointly launch a space object, they shall be jointly and severally liable for any damage caused in accordance with article V of the above-mentioned Convention.

2. The compensation that such States shall be liable to pay under the aforesaid Convention for damage shall be determined in accordance with international law and the principles of justice and equity in order to provide such reparation in respect of the damage as will restore the person, natural or juridical, State or international organization on whose behalf a claim is presented to the condition which would have existed if the damage had not occurred.

3. For the purposes of this principle, compensation shall include reimbursement of the daily substantiated expenses for search, recovery and clean-up operations, including expenses for assistance received from third parties.

Principle 12: Revision

These principles shall be reviewed by the Committee on the Peaceful Uses of Outer Space no later than 10 years after their adoption.

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* Final agreement on principles 8 and 9 is subject to further discussions relating to the definition(s) of the launching State.

** The phrase "States which launch or procure the launching of a space object carrying a nuclear power source and States from whose territory or facility a space object carrying a nuclear power source is launched" will be further considered.